

June 2018



CLINKS
RESPONSE

Joint Clinks and Young Review response to Criminal Justice Joint Inspection Business Plan 2018/19 Consultation

About the Young Review

The Young Review published its report into improving outcomes for young black and Muslim men in December 2014. Its Independent Advisory Group, chaired by Baroness Young of Hornsey and supported by the Black Training and Enterprise Group, includes representatives from the voluntary sector, academia and probation providers. It has been working since the report's publication to support the Ministry of Justice (MoJ) to take forward its recommendations.

For more information see www.youngreview.org

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working in the criminal justice system (CJS). Our aim is to ensure the sector and those with whom it works are informed and engaged in order to transform the lives of offenders and their communities. We do this by providing specialist information and support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning and to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

We are a membership organisation with over 500 members, including the voluntary sector's largest providers as well as its smallest. Our wider national network reaches 4,000 voluntary sector contacts. Overall, through our weekly e-bulletin Light Lunch and our social media activity, we have a network of over 15,000 contacts. These include individuals and agencies with an interest in the CJS and the role of the voluntary sector in rehabilitation and resettlement.

We have had a longstanding focus on issues relating to race and criminal justice. Between 2011 and 2013 we worked in partnership with the Black Training and Enterprise Group to lead the Young Review which published its final report in December 2014. Since then we have been a member of the review's steering group and Independent Advisory Group to the MoJ.

For more information see www.clinks.org

The
Young
Review

CLINKS

Supporting the voluntary sector
working in the criminal justice system

www.clinks.org



June 2018

About this response

We welcome the opportunity to respond to Criminal Justice Joint Inspection's (CJJI) business plan 2018/19 consultation. We have chosen to focus specifically on the CJJI proposal to undertake a scoping and feasibility study on ethnic disproportionality in the CJS. Clinks and the Young Review have drawn on our own and others' previous work on race and the CJS to provide this response. In it we refer to both the Young Review's final report and David Lammy's recent independent review into the treatment of, and outcomes for, black, Asian and minority ethnic (BAME) individuals in the CJS, as well as Clinks' recent response HMI Probation's consultation on its inspection framework and programme.

Ethnic disproportionality in the CJS

Clinks and the Young Review warmly welcome the CJJI proposal for a scoping and feasibility study into ethnic disproportionality in the CJS and the potential for future thematic activity in this area.

The over representation of BAME people and the poorer outcomes they experience in the CJS have received greater attention since the announcement of the Lammy Review and the publication of its recommendations.

It is vital that all agencies working in the CJS, including the inspectorates, take a proactive role in driving and monitoring action, with a view to increasing positive outcomes for BAME people and we welcome this first step from the CJJI towards this.

Below we outline some of the key considerations we believe the CJJI will need to take into account when developing this activity.

Building on existing data and evidence

We welcome the CJJI commitment to reviewing the data it holds in relation to this issue. The Lammy Review recommended that all data collected in the CJS should include a breakdown by ethnicity and it is positive to see the CJJI responding to this by exploring what data it currently holds.

Given that there is already significant data and evidence in this area, gathered by successive reviews and reports, any assessment of the inspectorates' data should be rapid in order to prevent unnecessary delays to action to improve outcomes for BAME people in the CJS. This existing data and evidence should be assessed alongside the CJJI data when potential areas for thematic inspection are considered. This will help to ensure that thematic reviews build on existing research including the Lammy Review and the work of the Race Disparity Audit.

The inspectorates themselves, both jointly and as single agencies, have previously highlighted important evidence with regards to this issue which may already indicate some potential areas for thematic review. These include:

- BAME prisoners are less likely than non-BAME prisoners to report:
 - » Having a prison job
 - » Being engaged in offending behaviour programmes
 - » Having positive relationships with staff.¹

June 2018

- BAME prisoners are more likely than non-BAME prisoners, to report being:
 - » Victimised
 - » Treated unfairly by the Incentives and Earned Privileges² scheme.
- Muslim³ and Gypsy, Traveller, Roma⁴ prisoners in particular report significantly poorer experience of prison.
- BAME children have a significantly poorer experience in custody than non-BAME children.⁵

Using data to drive action

As highlighted by the Lammy Review, it is vital that data is turned into insight and used to drive action. The data that is collected and collated by criminal justice agencies must lead to interventions that address the needs of BAME people in the system. Therefore, the previous findings of the inspectorates in this area must be properly addressed by the CJS and its agencies.

Much of the data already collected by the inspectorates is already broken down by ethnicity, meaning that it is possible to interrogate the data to identify specific institutions and areas of the country where issues are concentrated. As highlighted by the Lammy Review, “Individual prisons should already be making far better use of data, including information from HM Inspectorate of Prisons and Measuring the Quality of Prison Life (MQPL) surveys, but a more systematic approach is also needed”.⁶ The CJI specifically and publically highlighting areas and institutions of particular concern would be a significant step towards this and towards holding institutions to account on this issue. It would also play a role in addressing what David Lammy refers to in his review as a ‘trust deficit’ in the CJS.

The Lammy Review proposed the principle of explain or reform as a tool for addressing areas where disproportionality is identified and this has since been echoed by the Prime Minister. However Clinks and the Young Review have concerns about how this might be operationalised. It is unclear how an area to be scrutinised by this principle would be identified, who would identify it and who would then be accountable for addressing it. Once identified, it is not clear what will constitute an acceptable explanation for the disproportionality. Who will hold agencies to account for that explanation and what timescale for reform would be acceptable? Placing the onus for ensuring this principle is put into practice solely on institutions is not sufficient.

Further, the race and ethnicity board set up by the MoJ in response to the Lammy Review’s recommendations has identified three priorities: youth, data and workforce. While these are all areas of significant importance, the exclusion of the adult prison estate and probation is concerning. Data shows significant and long standing disproportionate numbers and unequal outcomes in these areas, which require immediate attention.

Clinks has previously suggested that an independent scrutiny body should exist, including voluntary sector organisations and community representatives, to ensure that the explain or reform principle is being applied in all relevant cases. This body would also act as a critical friend to government in assessing explanations and developing necessary reforms.

Alongside this, the CJI could potentially also act as a key vehicle through which such issues could be raised and institutions held to account for their actions to explain or reform. Placing explain or reform challenges within a clear, evidence-based framework would support agencies to have an informed dialogue about differential outcomes and treatment and appropriate responses.



June 2018

“We also proposed research on good practice in the treatment of and outcomes for BAME people under probation or youth offending services supervision.”

Potential areas for thematic focus

We recognise that the CJII wishes to undertake a scoping exercise before proposing thematic inspections in this area. However, based on the existing evidence and our own work on this subject, Clinks has previously proposed a joint inspection in this area when responding to HMI Probation’s consultation on their inspection framework and programmes for 2018/19. We summarise this proposal below:

A joint thematic inspection by the criminal justice inspectorates into the treatment of, and outcomes for, BAME people in the CJS.

The review should take a multi-agency approach which could both explore the role of policing, which was excluded from David Lammy’s review, and also focus on progress made and future plans for the implementation of the Lammy Review’s recommendations for prisons and probation services.

Any thematic review in this area should explore BAME service users’ experiences of the CJS and seek to utilise the expertise of BAME specialist voluntary organisations, as well as examine partnership work between criminal justice agencies and BAME organisations. This would allow for service user voice to be utilised and provide a set of evidence similar to that provided by HMI Prisons’ Prison Life survey across the range of criminal justice agencies.

Our most recent State of the sector survey found that only 5% of respondents described themselves as being a BAME specialist organisation and that 30% of BAME specialist organisations said they were at risk of closure, compared to just 5% of other respondents. This lack of resources and stability in the BAME voluntary sector working in criminal justice suggests that criminal justice agencies may need to be particularly proactive in their partnership work with BAME organisations in order to ensure they meet the needs of their BAME clients.

In our response to HMI Probation’s 2018/19 inspection programme consultation we also proposed research on good practice in the treatment of and outcomes for BAME people under probation or youth offending services supervision. This research should focus on the role of policy in promoting and driving good practice and the development of partnership work with BAME specialist organisations.

Implications for other planned work in the CJII and HMI Probation programme

We also believe that, in line with equality and diversity as a cross cutting factor across inspections, there are number of other joint and single agency inspection areas which should take this issue into account.

Joint targeted area inspections of child protection

We welcome gang-related child protection issues as a deep dive theme in this area. The Lammy Review highlights the problematic nature of the gang narrative which is often linked to the disproportionate use of stop and search powers against BAME people by the police. It points to surveillance tools such as the Metropolitan Police’s Trident Matrix database and suggests a review of the way information is gathered, verified, stored and shared, with specific reference to BAME disproportionality.



June 2018

“We suggest that a thematic inspection of post-sentence supervision should focus on people serving sentences of less than 12 months.”

“Inspections of youth resettlement should always be alive to the over representation of and poor outcomes for BAME children in the youth justice system.”

Similarly the Young Review and Clinks are concerned that enforcement structures in relation to gang issues are currently weighted towards the perceived risk posed by children rather than their needs and that this is drawing more BAME children into the CJS rather than preventing and deterring entry.

HMI Probation inspection of Youth Offending Teams

Clinks’ response to HMI Probation’s 2018/19 inspection programme consultation suggests that BAME disproportionality should be taken into account in the Youth Offending Teams’ (YOT) inspection programme.

Clinks recommends that HMI Probation should seek to inspect YOTs that demonstrate the greatest over representation of BAME young people in their case load and the greatest disproportionality with regard to outcomes.

HMI Probation thematic inspection of post sentence supervision

In Clinks’ response to HMI Probation’s 2018/19 inspection programme consultation we suggest that a thematic inspection of post-sentence supervision should focus on people serving sentences of less than 12 months, in order to review whether the extension of supervision to this group has been effective in ensuring that they receive the best possible support. Within this, HMI Probation should explore how specialist voluntary sector services, including women-centred services, those aimed at people from BAME backgrounds and those providing mental health support, contribute to positive outcomes for this group.

HMI Probation’s new approach to inspecting youth resettlement

Inspections of youth resettlement should always be alive to the over representation of and poor outcomes for BAME children in the youth justice system, including issues relating to poor experiences in custody and lack of resettlement support. HMI Prisons’ surveys of children in custody provide a detailed insight into the experiences of BAME children in prison, in comparison to their non-BAME peers.⁷ These surveys include several questions relevant to resettlement, such as questions about family contact, future accommodation, education and activities.

HMI Probation should make use of these surveys in identifying good and poor practice in the resettlement of BAME children.

For further information about this response, please contact Jess Mullen, Interim Head of Policy at: jessica.mullen@clinks.org

June 2018



**Clinks supports,
represents and
advocates for the
voluntary sector
in criminal justice,
enabling it to provide
the best possible
opportunities for
individuals and
their families.**

Published by Clinks

© 2018

All rights reserved

Clinks is a registered
charity no. 1074546 and
a company limited by
guarantee, registered
in England and Wales
no. 3562176.

Tavis House
1-6 Tavistock Square
London WC1H 9NA

020 7383 0966

info@clinks.org

🐦 @Clinks_Tweets

www.clinks.org/policy

End notes

1. HMIP Prisoner survey responses (adult men): diversity analysis – ethnicity/religion. https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/07/HMIP-AR_2016-17_CONTENT_11-07-17-WEB.pdf and HMIP Prisoner survey responses (adult women) ethnicity
2. HMIP Prisoner survey responses (adult men): diversity analysis – ethnicity/religion. See: https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/07/HMIP-AR_2016-17_CONTENT_11-07-17-WEB.pdf and HMIP Prisoner survey responses (adult women) ethnicity
3. HM Inspectorate of Prisons (2010). *Muslim prisoners' experiences: A thematic review*. See: www.justiceinspectorates.gov.uk/hmiprisons/inspections/muslim-prisoners-experiences-a-thematic-review/
4. HM Inspectorate of Prisons (2014). *People in prison: Gypsies, Romany and Travellers*. <https://www.justiceinspectorates.gov.uk/prisons/wp-content/uploads/sites/4/2014/04/gypsies-romany-travellers-findings.pdf>
5. HM Inspectorate of Prisons (2017). *Children in Custody 2016-17*. See: www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/11/6.3903_HMIP_Children-in-Custody-2016-17_FINAL_WEB_221117.pdf
6. Ministry of Justice (2017). *The Lammy Review: An independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system*. See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf
7. HM Inspectorate of Prisons (2017). *Children in Custody 2016-17*. See: www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/11/6.3903_HMIP_Children-in-Custody-2016-17_FINAL_WEB_221117.pdf